by former and present employees of the corporation. Inspectors Shallit and Allen described the inside appearance of the plant building, including the flour storage bin, the conveying system, and the manufacturing and drying equipment, and they testified to finding everywhere live or dead moths, live larvae, insect webbing, and pupae.

"It is urged that Dedomenico can not be held responsible for the shipments inasmuch as he was admittedly absent from the plant during the period June 28 to July 25. We do not agree. It is notable that the food product involved in one of the counts was manufactured and packed before he left for San Francisco, and that samples from this pack were shown to be more seriously contaminated than the majority of the other samples taken. Also it appears that one of the three shipments was made on July 26, the day after he returned. The unsanitary conditions found in the establishment had certainly prevailed for a considerable length of time prior to his departure. The record discloses also that he and the corporation had suffered a previous conviction for like violations of the Act. It is unnecessary to rest decision in this respect on the settled rule appealed to by government counsel that the criminal responsibility of a corporate officer having broad authority such as that possessed by this defendant does not depend upon his physical presence. See in support of the rule United States v. Dotterweich, 320 U. S. 277, 281–285; United States v. Kaadt, 7 Cir., 171 F. 2d 600, 604; United States v. Parfait Powder Puff Co., 7 Cir., 163 F. 2d 1008, 1009–1010, cert. den. 322 U. S. 851; State v. Burnam (Wash.), 128 Pac. 218; People v. Schwartz (Wash.), 70 P. 2d 1017.

"Another contention is that § 342 [402] (a) (4), on which the convictions in part rest, is so indefinite, uncertain and obscure as to render it violative of the Fifth and Sixth Amendments. The provision has been quoted in footnote 1 above, but for convenience we repeat its language. It declares that a food shall be deemed adulterated 'if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.'

"No decision directly in point is cited in support of the contention. The Eighth Circuit, in Berger v. United States, 200 F. 2d 818, held that the section conveys a sufficiently definite warning as to what conduct would constitute a crime to save the provision from invalidity for vagueness. We are in agreement with this holding. Compare Boyce Motor Lines v. United States, 342 U. S. 337, dealing with the alleged vagueness of a regulation promulgated by the Interstate Commerce Commission under statutory authority. In rejecting the claim of vagueness, the Court there said (p. 340) that 'but few words possess the precision of mathematical symbols, most statutes must deal with untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government inevitably limit the specificity with which legislators can spell out prohibitions. Consequently, no more than a reasonable degree of certainty can be demanded. Nor is it unfair to require that one who deliberately goes perilously close to an area of proscribed conduct shall take the risk that he may cross the line.' See also United States v. Petrillo, 332 U. S. 1, where the words 'unneeded employees' were held sufficiently clear to escape condemnation.

"Other points raised are too lacking in substance to warrant discussion.

"The judgment is affirmed."

20606. Adulteration and misbranding of egg noodles. U. S. v. American Beauty Macaroni Co. Plea of nolo contendere. Fine of $150, plus costs. (F. D. C. No. 34866. Sample No. 22608–L.)

INFORMATION FILED: June 25, 1953, Western District of Missouri, against the American Beauty Macaroni Co., a corporation, Kansas City, Mo.

ALLEGED SHIPMENT: On or about May 5, 1952, from the State of Missouri into the State of Texas.

LABEL, IN PART: "American Beauty Egg Noodles Contain 5½% Egg Solids."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in part omitted from the article; and, Section 402 (b) (2), a product, the total solids of which contained less than 5.5 percent by weight of the solids of egg or egg yolk, had been substituted for egg noodles.

Misbranding, Section 403 (a), the label statement "Contains 5½% Egg Solids" was false and misleading; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted by the definition and standard.

DISPOSITION: July 10, 1953. A plea of nolo contendere having been entered, the court fined the defendant $150, plus costs.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

20607. Adulteration of unpopped popcorn. U. S. v. Confections, Inc., and Floyd Fall. Pleas of guilty. Fine of $250 against corporation and $50 against individual, plus costs. (F. D. C. No. 35140. Sample No. 36295–L.)

INFORMATION FILED: August 24, 1953, Southern District of Iowa, against Confections, Inc., Red Oak, Iowa, and Floyd Fall in charge as foreman of the corporation's Red Oak plant.

ALLEGED SHIPMENT: On or about September 25, 1952, from the State of Iowa into the State of Ohio.

LABEL, IN PART: "Big Boy Popcorn Confections, Inc. Red Oak, Iowa Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent-gnawed and insect-eaten kernels of corn, and rodent hairs; and, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 28, 1953. The defendants having entered pleas of guilty, the court imposed a fine of $250 against the corporation and $50 against the individual, plus costs.

20608. Adulteration of rice. U. S. v. 42 Bags, etc. (F. D. C. No. 35416. Sample Nos. 59379–L, 59380–L.)

LIBEL FILED: September 3, 1953, Northern District of Georgia.

ALLEGED SHIPMENT: On or about September 23, October 19, and December 1, 1952, from Stuttgart and Jonesboro, Ark.

PRODUCT: 94 100-pound bags of rice at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 14, 1953. The Arkansas Rice Growers Co-Op. Association, Stuttgart, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning under the supervision of the Department of Health, Education, and Welfare. As a result of the reconditioning operations, 300 pounds of the product were found unfit and were denatured for use as stock feed.

20609. Adulteration of rice. U. S. v. 6 Bags, etc. (F. D. C. No. 35473. Sample Nos. 65226–L, 65227–L.)

LIBEL FILED: September 3, 1953, Southern District of Iowa.